



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Stark et al.

SERIAL NO.: 10/085,985 GROUP:3679

FILED: 2/28/2002

EXAMINER: Dunwoody

FOR: Double Containment Pipe System

**RECEIVED**

MAY 27 2004

**GROUP 3600**

APPEAL BRIEF

1. REAL PARTY IN INTEREST

The real parties in interest are Michael W. Stark and Gregory A. Jackson.

2. RELATED APPEALS AND INTERFERENCES

On information and belief, there are no related appeals or interferences to the above - identified application.

3. STATUS OF CLAIMS

Claims 1, 3, 5, 6, 9, 11, 13 and 14 stand rejected.

4. STATUS OF AMENDMENTS

The Amendment of 9/18/2003 and Amendment of 6/3/2003 filed after the final rejection appear to have been acted upon by the Examiner and entered.

5. SUMMARY OF INVENTION

The present invention is directed to a double containment pipe system 10 (FIG. 1) which includes a carrier pipe section 12(FIG. 1) having a plurality of radially spaced centralizer fins 22 (FIG. 1) fixably connected to and longitudinally extending along an outer surface thereof in a

manner which prevents movement thereof with respect to said carrier pipe 12 only. A containment pipe section 14 (FIG. 1) is provided having an inner surface of a diameter to contain the carrier pipe section 12 and readily permit movement therein, wherein an annulus 28 is formed between the carrier pipe section 12 and containment pipe section 14 such that the carrier pipe section 12 and the fins 22 slide as a unit within the containment pipe 14. The system 10 is characterized to include a plurality of the carrier pipe sections 12 as defined which are fixably interconnected to one another and which are operably disposed within a plurality of the containment pipe sections 14 which are removably interconnected to one another by a clamp 16 (FIG. 1).

6. ISSUES

The issues before the Board are:

- 1) Whether Claims 1, 3, 5, 6, 9, 11, 13 and 14 of the present invention are anticipated by U.S. Patent 5,186,502 to Martin under 35 U.S.C 102(b);
- 2) Whether Claims 5 and 13 of the present invention are obvious over Martin in view of U.S. Patent 5,433,484 to Ewen et al. under 35 U.S.C 103(a);  
and
- 3) Whether Claims 6 and 14 of the present invention are obvious over Martin in view of U.S. Patent 6,039,066 to Selby under 35 U.S.C 103(a).

7. GROUPING OF CLAIMS

Claims 1, 3, 5, 6, 9, 11, 13 and 14 are considered to be under claim 1.

8. ARGUMENT

As for the first issue, during prosecution of the application, the Examiner rejected 1, 3, 5, 6, 9, 11, 13 and 14 of the present invention are anticipated by U.S. Patent 5,186,502 to Martin under 35 U.S.C 102(b) as including all of the elements recited in Claim 1.

The pertinent part of 35 U.S.C. 102(b) states:

A person shall be entitled to a patent unless ...

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Here, it is respectfully submitted that the double containment pipe system which is claimed in the present invention is not anticipated by Martin. Martin discloses a double containment pipe fitting and system which does not include all of the limitations of the claimed invention. Specifically, Martin does not disclose a double containment pipe system which includes a carrier pipe section having a plurality of radially spaced centralizer fins fixably connected to and longitudinally extending along an outer surface thereof in a manner which prevents movement thereof with respect to the carrier pipe section only, and a containment pipe section having an inner surface of a diameter to contain the carrier pipe section and readily permit movement

therein, wherein an annulus is formed between the carrier pipe section and containment pipe section such that the carrier pipe and the fins slide as a unit within the containment pipe section; and wherein the system is characterized to include a plurality of the carrier pipe sections as defined which are fixably interconnected to one another and which are operably disposed within a plurality of the containment pipe sections which *are removably interconnected to one another by a clamp*. Martin discloses a double containment pipe system made of a polymer which is a fiber reinforced thermoset resin and explicitly states its advantage of such system over metal or other less desirable materials which undergo significant expansion and contraction (Col. 7, lines 1-16). In order to join the disclosed pipes made of such material, Martin discloses the use of a butt-strapped joint, said strap asserted by the Examiner to be equivalent of the claimed clamp in the instant invention (Col. 10, lines 29-39).

It is with this point Applicants take issue. The butt-strap of Martin is not a clamp which holds the pipes in a removably interconnected manner as claimed in the instant invention. Rather, the butt-strap joint is a fusion joint used in permanently joining the fiber reinforced thermoset resin pipe (i.e., fiberglass pipe).

It is respectfully submitted that the Examiner is incorrectly reading teachings of the disclosure of Martin into the claim limitations which are simply not present. For these reasons, it is respectfully submitted that the rejection under 35 U.S.C. 102(b) be withdrawn.

As for the second issue, claims 5 and 13 of the present invention were rejected as obvious over Martin in view of U.S. Patent 5,433,484 to Ewen et al. under 35 U.S.C 103(a). The pertinent part of 35 U.S.C. 103(a) states:

Conditions for patentability; non-obvious subject

matter

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Ewen et al. is asserted to teach of the clamp which holds the pipes in a removably interconnected manner as claimed in the instant invention and that one skilled in the art would have combined the teaching of Ewen et al. with that of Martin to arrive at the instant invention. This assertion is also traversed.

While it is true Ewen et al. teach of a clamp 160, Ewen et al. do not so teach the claimed invention. The clamp of Ewen et al. is used for the purpose of retaining an electro fusion coupling in place about adjacent pipes to permanently fuse and connect the adjacent pipes. The clamp is not part of a double containment pipe system which holds the pipes in a removably interconnected manner as claimed in the instant invention. While Ewen et al. teach of a clamp, they do so for the purpose of holding the ends of the containment pipes together so that the ends can be welded together rendering a fixed connection of the containment pipe and after which they are removed (col. 8 lines 58-60). This is contrasted with the present invention which uses clamps with seals to hold the containment pipes together in a sealed manner and if removed would disconnect the containment pipes. Further, while one could have tried to use a clamp to hold containment pipe together in a removable fashion about a fixably interconnected carrier pipe, there is no motivation to have done so in the art and it would not provide the instant invention.

Clearly, Martin uses and speaks of the advantage of using its polymer pipe and a butt-strapped (fused joint). This is a chemical fusing which does not require the use of a clamp which would be an extra and unnecessary step for achieving the system of Martin.

It is therefore respectfully submitted that claims are believed to be patentably distinguished over Martin alone or when taken Ewen et al. Withdrawal of the rejection is therefore respectfully requested.

Finally, the third issue surrounds claims 6 and 14 of the present invention which are asserted to be obvious over Martin in view of U.S. Patent 6,039,066 to Selby under 35 U.S.C 103(a). Selby admittedly teaches leak detection. The teaching of a leak detection device of Selby in combination with the teaching of Martin does, however, not render obvious the claims of the instant invention for the reasons stated with respect to Martin above. Withdrawal of the rejection is therefore respectfully requested.

Accordingly, the remaining claims are respectfully submitted to be patentably distinguished over the cited art. Withdrawal of the rejection is respectfully requested and allowance of claims 1, 3, 5-6, 9, 11, and 13-14 is requested at as early a date as possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'R. William Graham', written in a cursive style.

R. William Graham, Reg. No. 33,891

Certificate of Mailing

I hereby certify that this Amendment is being deposited with the United States Postal Service in an envelope addressed to the Board of Appeals and Interferences, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 with sufficient first class postage thereon on the date shown below

Date. May 20, 2004



R. William Graham

## Listing of Claims.

1. (Currently amended) A double containment pipe system, which includes:  
  
a carrier pipe section having a plurality of radially spaced centralizer fins fixably connected to and longitudinally extending along an outer surface thereof in a manner which prevents movement thereof with respect to said carrier pipe section only; and  
  
a containment pipe section having an inner surface of a diameter to contain said carrier pipe section and readily permit movement therein, wherein an annulus is formed between the carrier pipe section and containment pipe section such that said carrier pipe and said fins slide as a unit within said containment pipe section; and wherein said system is characterized to include a plurality of said carrier pipe sections as defined which are fixably interconnected to one another and which are operably disposed within a plurality of said containment pipe sections which are removably interconnected to one another by a clamp.
2. Cancelled.
3. (Previously submitted) The double containment pipe system of claim 1, wherein said radially spaced centralizer fins are generally radially equidistantly spaced from one another.
4. Cancelled.
5. (Previously submitted) The double containment pipe system of claim 1, wherein said clamp is characterized to include a quick connect coupling having a clamp configured to sealably enclose and connect adjacent ends of said connecting containment pipe sections.
6. (Original) The double containment pipe system of claim 1, which includes a leak detection device operably disposed within an annulus between said carrier pipe section and said containment pipe section adjacent a bottom portion of said containment pipe between said radially extending



members.

7. Cancelled.

8. Cancelled.

9. (Currently amended)

A double containment pipe system, which includes:

a carrier pipe section; and

a containment pipe section having a plurality of radially spaced centralizer fins fixably connected to and longitudinally extending along an inner surface thereof in a manner which prevents movement thereof with respect to said containment pipe only such that said carrier pipe section slides on said fins within said containment pipe and providing an inner diameter to contain said carrier pipe section and readily permit movement therein, wherein an annulus is formed between the carrier pipe section and containment pipe section; and wherein said system is characterized to include a plurality of said carrier pipe sections as defined which are fixably interconnected to one another and which are operably disposed within a plurality of said containment pipe sections which are removably interconnected to one another by a clamp.

10. Cancelled.

11. (Original) The double containment pipe system of claim 9, wherein said radially spaced members are generally radially equidistantly spaced from one another.

12. Cancelled.

13. (previously submitted) The double containment pipe system of claim 9, wherein said clamp is characterized to include a quick connect containment coupling having a clamp configured to sealably enclose and connect adjacent ends of said connecting containment pipe sections.

14. (Original) The double containment pipe system of claim 9, which includes a leak detection device operably disposed within an annulus between said carrier pipe section and said containment pipe section adjacent a bottom portion of said containment pipe between said radially extending members.

15. Cancelled.